Bill Draft 2011-TG-14A:
Reg. Compliance/Product Liability Defense.

2011-2012 General Assembly

Committee:	Senate Judiciary I	**Date:**	February 20, 2012
Introduced by:		**Prepared by:**	Bill Patterson
Analysis of:	2011-TG-14A		Committee Counsel

SUMMARY: Draft bill 2011-TG-14A is identical to 2011-TG-14, except that it adds an additional exception under which the defense based on FDA approval would not be available if the drug was advertised or marketed for off-label use and the injury was the result of the drug being used as so advertised or marketed.

CURRENT LAW AND BILL ANALYSIS:

Current Law: Same as stated in summary for draft bill 2011-TG-14.

Bill Analysis: Draft bill 2011-TG-14A makes one change to 2011-TG-14: it adds new subsection 99B-12(d), which makes the FDA approval defense unavailable if the claimant establishes by a preponderance of the evidence all of the following:

- the manufacturer or seller recommended, promoted, or advertised the drug for an indication not approved by the United States Food and Drug Administration
- the drug was used as recommended, promoted, or advertised
- the recommended, promoted, or advertised use of the drug was the proximate cause of the claimant's injury

EFFECTIVE DATE: The act is effective October 1, 2012, and applicable to actions commenced on or after that date.

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